

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Qwest Communications International Inc.	)	
Petition for Declaratory Ruling on the	)	WC Docket No. 02-89
Scope of the Duty to File and Obtain	)	
Prior Approval of Negotiated Contractual	)	
Arrangements Under Section 251(c)(4) of	)	
the Act	)	

**REPLY COMMENTS OF VERIZON<sup>1</sup>  
ON PETITION FOR DECLARATORY RULING**

Qwest Communications International Inc. (“Qwest”) asks the Commission to declare which types of negotiated contractual arrangements between incumbent local exchange carriers (“ILECs”) and competitive local exchange carriers (“CLECs”) are subject to the mandatory filing and 90-day state commission approval requirements of 47 U.S.C § 251(a)(1). Verizon files these reply comments to respond to several inaccurate statements made by certain commenters.

First, some parties assert that “[a]ll agreements between ILECs and CLECs are subject to” state approval under Section 252(e)(2) of the Telecommunications Act, regardless of whether they are an interconnection agreement or not. New Mexico and Iowa Comments at 5 (emphasis supplied). This assertion is incorrect. The Act does not require the filing of *all* agreements between ILECs and CLECs and it does not give the states authority to review and approve *all* agreements between ILECs and CLECs.

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<sup>1</sup> The Verizon telephone companies (“Verizon”) are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

Section 252(e)(1) provides that “[a]ny *interconnection* agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission.” 47 U.S.C § 252(e)(1)(emphasis supplied). It does not require the filing of agreements that are not interconnection agreements. Many agreements between ILECs and CLECs are not interconnection agreements and therefore do not have to be filed. For example, agreements between ILECs and CLECs for unregulated services, such as billing and collection services, are not interconnection agreements and do not need to be filed under Section 251. In addition, day-to-day business arrangements between ILECs and CLECs that do not establish new or modify existing interconnection terms and conditions are not interconnection agreements. *See, e.g.*, Minnesota Comments at 7; AT&T Comments at 14. These arrangements include contract implementation documents that may describe the CLEC’s proprietary network configurations and technologies. Similarly, settlement agreements between ILECs and CLECs that do not establish new or modify existing interconnection terms and conditions are not interconnection agreements. *See, e.g.*, Minnesota Comments at 6-7; AT&T Comments at 17.

Second, AT&T, Focal and Pac-West assert that the Act requires the ILEC to file the interconnection agreement for state approval. *See* AT&T Comments at 7 (“the proper ‘touchstone’ is the final sentence of section 252(a)(1), which unambiguously directs incumbent LECs to file ‘[t]he agreement’ for interconnection, services or network elements negotiated pursuant to Section 251”); Focal/Pac-West Comments at 3 (Sections 251 and 252 “set forth the general duty of ILECs to negotiate in good faith . . . and to file the agreements with state regulators”). This assertion is incorrect. The Act and the

Commission's rules require *the parties* to file the interconnection agreement for state approval.

Section 252(e)(4) makes clear that *the parties* are responsible for filing the interconnection agreement:

If the State commission does not act to approve or reject the agreement within 90 days after submission *by the parties* of an agreement adopted by negotiation under subsection (a), or within 30 days after submission *by the parties* of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved.

47 U.S.C. § 252(e)(4)(emphasis supplied). Likewise, the Commission's rules obligate *the parties* to file the interconnection agreement: "All interconnection agreements between an incumbent LEC and a telecommunications carrier, including those negotiated before February 8, 1996, shall be submitted *by the parties* to the appropriate state commission for approval pursuant to section 252(e) of the Act." 47 C.F.R. § 51.303(a)(emphasis supplied).<sup>2</sup>

Imposing the duty to file interconnection agreements on both the ILEC and the CLEC makes sense from a public policy perspective. By sharing in the responsibility to file an interconnection agreement, CLECs have less incentive to negotiate discriminatory interconnection agreements in the first place and to request that they be kept secret. Accordingly, contrary to the claims of these parties, any investigation of whether an interconnection agreement was not filed for state commission approval should include both parties to the agreement.

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<sup>2</sup> This Commission rule requiring the CLEC and the ILEC to file interconnection agreements appears in Subpart D, which is named "Additional Obligations of Incumbent Local Exchange Carriers." Subpart D is misnamed because it plainly includes obligations other than those of incumbent local exchange carriers. *See, e.g.,*

Third, AT&T claims that “the 90-day approval process does not present a legal impediment to parties who would find it in their interest to begin operating under the terms of a negotiated agreement prior to state commission approval.” AT&T Comments at 12. This is not true for all states. Verizon understands that several states have indicated that interconnection agreements become effective upon approval. *See, e.g., Request for Approval of an Interconnection Agreement Between Verizon California Inc. and Ernest Communications, Inc. (U-6077-C), Pursuant to Section 252 of the Telecommunications Act of 1996, Resolution T-16633 (Cal. PUC Feb. 7, 2002).*

Respectfully submitted,

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47 C.F.R. § 51.301(b) (“[a] requesting telecommunications carrier shall negotiate in good faith the terms and conditions of agreements described in paragraph (a) of this section”).

**THE VERIZON TELEPHONE COMPANIES**

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.